

110TH CONGRESS  
1ST SESSION

# H. R. 3919

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2007

Mr. MARKEY (for himself, Mr. DINGELL, Mrs. WILSON of New Mexico, Ms. ESHOO, Mr. DOYLE, Mr. GORDON of Tennessee, Mrs. CAPPS, Mr. SPACE, Mr. HILL, Ms. SOLIS, Mr. GONZALEZ, Mr. GENE GREEN of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Broadband Census of  
5       America Act of 2007”.

6       **SEC. 2. CENSUS OF BROADBAND SERVICE AND INFRA-**  
7       **STRUCTURE DEPLOYMENT.**

8       (a) DUTY TO COLLECT AND REPORT.—

1           (1) ANNUAL ASSESSMENT AND REPORT.—The  
2       Commission shall, on an annual basis, conduct an  
3       assessment and publish a report on the deployment,  
4       by bandwidth service tiers and types of technology,  
5       of broadband service capability throughout the  
6       States.

7           (2) BANDWIDTH SERVICE TIERS.—The Com-  
8       mission shall designate bandwidth service tiers by  
9       identifying tiers of increasing data transmission  
10      speeds of broadband service capability that will pro-  
11      vide useful, informative information about the na-  
12      ture and extent of deployment of broadband service  
13      capability. At a minimum, the tiers in the aggregate  
14      shall encompass all data transmission speeds de-  
15      ployed, and shall consist of multiple combinations of  
16      upstream and downstream data transmission speeds.  
17      Each tier shall be designated, to the extent possible,  
18      to correspond to the ability to support qualitatively  
19      different applications and services, which the Com-  
20      mission shall also identify.

21          (3) INFORMATION COLLECTION.—The Commis-  
22      sion shall collect information from all commercial  
23      and public providers of broadband service capability  
24      under its jurisdiction in each State. Such informa-

1       tion shall include, for each area encompassed by a  
2       United States postal zip code of the 5 digit level—

3               (A) information concerning deployment of  
4       the types of technology used to provide  
5       broadband service capability;

6               (B) the actual number of residential sub-  
7       scribers, small business subscribers, and large  
8       business subscribers in each such area, and for  
9       each tier designated under paragraph (2); and

10              (C) the advertised data transmission  
11       speeds of broadband service capability offered  
12       in each such area.

13       (b) EVOLUTION OF ASSESSMENT.—The Commission  
14       shall periodically review both the bandwidth service tiers  
15       and the types of technology utilized in its assessment  
16       under subsection (a) to take into account changes in tech-  
17       nology and marketplace conditions.

18       (c) INTERNATIONAL COMPARISON.—

19              (1) INTERNATIONAL COMPARISON.—As part of  
20       the assessment and report required by this section,  
21       the Commission shall include information comparing  
22       the extent of broadband service capability (including  
23       data transmission speeds and price for broadband  
24       service capability) in a total of 75 communities in at

1       least 25 countries abroad for each of the tiers des-  
2       ignated pursuant to subsection (a)(2).

3               (2) CONTENTS.—The Commission shall choose  
4       communities for the comparison under this sub-  
5       section in a manner that will offer, to the extent  
6       possible, communities of a population size, popu-  
7       lation density, topography, and demographic profile  
8       that are comparable to the population size, popu-  
9       lation density, topography, and demographic profile  
10      of various communities within the United States.  
11      The Commission shall include in the comparison  
12      under this subsection—

13               (A) a geographically diverse selection of  
14      countries; and

15               (B) communities including the capital cit-  
16      ies of such countries.

17               (3) SIMILARITIES AND DIFFERENCES.—The  
18      Commission shall identify relevant similarities and  
19      differences in each community, including their mar-  
20      ket structures, the number of competitors, the num-  
21      ber of facilities-based providers, the types of tech-  
22      nologies deployed by such providers, the applications  
23      and services those technologies enable, and the regu-  
24      latory model under which broadband service capa-  
25      bility is provided.

1       (d) PROTECTION OF INFORMATION.—Nothing in this  
2 section shall reduce or remove any obligation the Commis-  
3 sion has to protect proprietary information, nor shall this  
4 section be construed to compel the Commission to make  
5 publicly available any proprietary information. Any infor-  
6 mation collected by the Commission pursuant to sub-  
7 section (a)(3) that reveals business or marketing plans or  
8 any other competitively sensitive or proprietary informa-  
9 tion of a provider of broadband service capability, or that  
10 is not, in the normal course of business, known or shared  
11 by competing providers or made publicly available, shall  
12 not be disclosed by the Commission.

13       (e) REGULATIONS.—The Commission shall, within  
14 180 days after the date of the enactment of this Act, pro-  
15 mulgate regulations to implement this section.

16 **SEC. 3. BROADBAND INVENTORY MAP.**

17       (a) ESTABLISHMENT.—To provide a comprehensive  
18 nationwide inventory of existing broadband service capa-  
19 bility and infrastructure, the Assistant Secretary for Com-  
20 munications and Information of the Department of Com-  
21 merce and the NTIA shall develop and maintain a  
22 broadband inventory map of the United States that identi-  
23 fies and depicts the geographic extent to which broadband  
24 service capability is deployed and available from a com-  
25 mercial provider or public provider throughout each State.

1 (b) INFORMATION SHOWN.—The broadband inven-  
2 tory map developed and maintained pursuant to this sec-  
3 tion shall be capable of identifying and depicting, nation-  
4 wide, for each State, and for each county or parish of each  
5 State—

6 (1) each area encompassed by a United States  
7 postal zip code of 9 digit level, census tract level, or  
8 functional equivalent in which broadband service ca-  
9 pability is deployed at that time, including—

10 (A) each commercial or public provider of  
11 broadband service capability within such area;

12 (B) each type of technology used to pro-  
13 vide broadband service capability within such  
14 area; and

15 (C) which bandwidth service tiers are  
16 available within such area for each provider of  
17 broadband service capability; and

18 (2) each area encompassed by a United States  
19 postal zip code of 9 digit level, census tract level, or  
20 functional equivalent in which broadband service ca-  
21 pability is not deployed at that time.

22 (c) DATA USE ENCOURAGED.—The NTIA shall seek  
23 to overlay demographic data obtained from other sources  
24 in the Department of Commerce and elsewhere for use  
25 with such broadband inventory map.

1 (d) PUBLIC AVAILABILITY AND INTERACTIVITY.—

2 Not later than 2 years after the date of the enactment  
3 of this Act, the NTIA shall make the broadband inventory  
4 map developed and maintained pursuant to this section  
5 accessible by the public on a World Wide Web site of the  
6 NTIA in a form that is interactive for users and search-  
7 able by each of the geographic areas specified in sub-  
8 section (b).

9 (e) UPDATING.—The NTIA shall update the  
10 broadband inventory map developed and maintained pur-  
11 suant to this section to ensure that the information pro-  
12 vided by the broadband inventory map is timely and accu-  
13 rate.

14 (f) OBTAINING INFORMATION.—

15 (1) IN GENERAL.—The NTIA shall request and  
16 obtain, from the Commission, eligible entities under  
17 section 4, and commercial and public providers of  
18 broadband service capability, such information as  
19 may be necessary to carry out this section.

20 (2) PRIORITY OF INFORMATION REQUESTS.—

21 The NTIA shall first request and obtain such infor-  
22 mation from the Commission or such entities before  
23 requesting and obtaining such information from  
24 commercial and public providers of broadband serv-  
25 ice capability.

1           (3) COMPATIBLE FORMAT.—Such entities or  
 2           providers may elect to provide the NTIA with the in-  
 3           formation necessary for displaying a statewide map,  
 4           provided that such map meets the requirements of  
 5           subsection (b) for that State and such information  
 6           is in a format that NTIA is able to incorporate into  
 7           the broadband inventory map required under this  
 8           section.

9           (g) PROTECTION OF INFORMATION.—Nothing in this  
 10          section shall reduce or remove any obligation the NTIA  
 11          has to protect proprietary information, nor shall this sec-  
 12          tion be construed to compel the NTIA to make publicly  
 13          available any proprietary information. Any information  
 14          obtained by NTIA pursuant to subsection (f) that reveals  
 15          business or marketing plans or any other competitively  
 16          sensitive or proprietary information of a provider of  
 17          broadband service capability, or that is not, in the normal  
 18          course of business, known or shared by competing pro-  
 19          viders or made publicly available, shall not be disclosed  
 20          by NTIA.

21       **SEC. 4. GRANTS TO STATES FOR BROADBAND MAP DEVEL-**  
 22               **OPMENT.**

23          (a) IN GENERAL.—The NTIA may, to the extent  
 24          amounts are made available pursuant to section 9(b) for  
 25          use under this section, make grants to an eligible entity



1 to assist in providing the NTIA with information to facili-  
2 tate the development of the broadband inventory map re-  
3 quired under section 3.

4 (b) STATE ENTITY APPLICATION AND DESIGNA-  
5 TION.—An eligible entity in any State that seeks to obtain  
6 a grant under this section shall submit an application to  
7 the NTIA at such time, in such form, and containing such  
8 information and assurances as the NTIA may require.

9 (c) USE.—Amounts from a grant under this section  
10 may be used only for costs involved in developing and ob-  
11 taining information necessary to provide the broadband in-  
12 ventory map required under section 3.

13 (d) CONDITIONS.—

14 (1) INFORMATION SHARING.—As a condition of  
15 receipt of a grant under this section, the eligible en-  
16 tity shall agree to provide to the NTIA any informa-  
17 tion developed or obtained using such grant  
18 amounts.

19 (2) MATCHING REQUIREMENT.—An eligible en-  
20 tity may not obtain a grant under this section to  
21 carry out the activities under this section unless  
22 such entity agrees to provide, from non-Federal  
23 funds, an amount equal to not less than 20 percent  
24 of the amount of the grant toward the costs of car-  
25 rying out such activities.

1 (e) GRANT CRITERIA.—The NTIA shall select an eli-  
2 gible entity to receive a grant under this section based  
3 upon criteria that shall include—

4 (1) whether such entity requesting a grant is  
5 organized on a statewide basis and prepared to de-  
6 velop information for use by NTIA on a timely basis;

7 (2) the extent to which financial support from  
8 State or other sources is unavailable to such entity  
9 to fulfill the objectives of this Act; and

10 (3) whether the denial of such entity’s grant re-  
11 quest would—

12 (A) result in the inability of such entity to  
13 develop information on a timely or comprehen-  
14 sive basis; and

15 (B) result in a gap in the information for  
16 that State or otherwise thwart the objectives of  
17 this Act.

18 (f) SUBCONTRACTS PERMITTED.—An eligible entity  
19 may enter into contracts to carry out subsection (c) and  
20 the other requirements of this section.

21 (g) ELIGIBLE ENTITY.—For the purposes of this sec-  
22 tion, the term “eligible entity” for any State means—

23 (1) an entity that is either—

24 (A) an agency or instrumentality of that  
25 State, or a municipality or other subdivision (or

1           agency or instrumentality of a municipality or  
2           other subdivision) of that State; or

3                   (B) a nonprofit organization that is de-  
4           scribed in section 501(c)(3) of the Internal Rev-  
5           enue Code of 1986 and that is exempt from  
6           taxation under section 501(a) of such Code;  
7           and

8           (2) the entity is the single eligible entity in such  
9           State that has been designated by the State to re-  
10          ceive a grant under this section.

11 **SEC. 5. GRANTS FOR DEMAND-SIDE BROADBAND SERVICE**

12 **IDENTIFICATION AND ASSESSMENTS.**

13           (a) GRANT AUTHORITY.—From the amounts appro-  
14          priated under section 9(c), the Secretary shall establish  
15          a grant program to create and facilitate the work of local  
16          technology planning entities that represent a broad cross-  
17          section of their community, including representatives of  
18          business, telecommunications labor organizations, con-  
19          sumer organizations, elementary and secondary education,  
20          health care providers, libraries, higher education, commu-  
21          nity-based organizations, and local government.

22           (b) STATE ENTITY APPLICATION AND DESIGNA-  
23          TION.—Each eligible planning entity in any State that  
24          seeks to obtain a grant under this section shall submit  
25          an application to the NTIA at such time, in such form,

1 and containing such information and assurances as the  
2 NTIA may require. Such application shall contain a dem-  
3 onstration that—

4 (1) the entity is an eligible planning entity; and

5 (2) the eligible planning entity is the single eli-  
6 gible planning entity in such State that has been  
7 designated by the State for an exclusive geographic  
8 area within the State to receive a grant under this  
9 section.

10 (c) USE OF FUNDS.—Grants awarded by the Sec-  
11 retary under this section shall be used to assist an eligible  
12 planning entity to—

13 (1) assess the current use of broadband service  
14 capability across relevant community sectors;

15 (2) set goals for improving or maximizing such  
16 use within each sector;

17 (3) develop a plan for achieving the eligible  
18 planning entity's goals, with specific recommenda-  
19 tions for identifying and spurring demand for such  
20 capability;

21 (4) collaborate with providers of broadband  
22 service capability and other high technology compa-  
23 nies to encourage the deployment and use of  
24 broadband service capability in unserved and under-  
25 served areas;

1           (5) identify local demand for broadband service  
2           capability and aggregate such demand;

3           (6) establish programs, but not acquire equip-  
4           ment or facilities, to improve computer ownership  
5           and Internet access for unserved and underserved  
6           populations; and

7           (7) facilitate the exchange of information re-  
8           garding the use and demand for broadband service  
9           capability between the public and private sectors.

10          (d) PROHIBITION.—Funds made available by a grant  
11          under this section shall not be used for the provision of  
12          broadband service capability or the acquisition of equip-  
13          ment or facilities for such capability, except that this pro-  
14          hibition shall not prohibit an eligible planning entity’s use  
15          of such funds to acquire broadband service capability or  
16          equipment or facilities for such capability for use by such  
17          entity in its own conduct of planning activities.

18          (e) ELIGIBLE PLANNING ENTITY.—For the purposes  
19          of this section, the term “eligible planning entity” for any  
20          State means—

21                (1) an agency or instrumentality of that State,  
22                or a municipality or other subdivision (or agency or  
23                instrumentality of a municipality or other subdivi-  
24                sion) of that State; or

1           (2) a nonprofit organization that is described in  
2       section 501(c)(3) of the Internal Revenue Code of  
3       1986 and that is exempt from taxation under section  
4       501(a) of such Code.

5 **SEC. 6. CONSUMER SURVEY OF BROADBAND SERVICE CA-**  
6 **PABILITY.**

7       (a) **AUTHORITY.**—The Commission shall conduct and  
8       make public periodic surveys of consumers of broadband  
9       service capability in urban, suburban, and rural areas in  
10      the large business, small business, and residential con-  
11      sumer markets to determine the following:

12           (1) The type of technology used to provide the  
13       broadband service capability to which the consumer  
14       subscribes.

15           (2) The amount the consumer pays per month  
16       for such capability.

17           (3) The actual data transmission speeds of such  
18       capability.

19           (4) The types of applications and services the  
20       consumer most frequently uses in conjunction with  
21       such capability.

22       (b) **PUBLIC AVAILABILITY.**—The Commission shall  
23       make publicly available the results of surveys conducted  
24       under this section at least once per year.

1 **SEC. 7. CONFIDENTIALITY OF CONSUMER INFORMATION.**

2 (a) IN GENERAL.—The Commission shall, within 180  
3 days after the date of the enactment of this Act, promul-  
4 gate regulations—

5 (1) to protect the confidentiality of personal  
6 consumer information collected for the purposes of  
7 this Act;

8 (2) to require the Commission, the NTIA, and  
9 each other entity that collects or controls such infor-  
10 mation for the purposes of this Act (including any  
11 eligible entity under section 4, eligible planning enti-  
12 ty designated under section 5(b)(2), and commercial  
13 and public provider of broadband service capability)  
14 to protect the confidentiality of such information;  
15 and

16 (3) to permit such information to be disclosed  
17 by such entities only to the extent consistent with  
18 the provisions and for the purposes of this Act, or  
19 with the prior express authorization of the consumer  
20 to whom it pertains.

21 (b) LIMITATION.—The regulations promulgated  
22 under subsection (a) shall not preclude the ability of any  
23 consumer or other person or entity to search, by individual  
24 street address, the broadband inventory map developed  
25 and maintained pursuant to section 3, or any of the indi-  
26 vidual State maps which may compose it.

1 **SEC. 8. STATE OR LOCAL AUTHORITY.**

2 Except as provided in section 7, nothing in this Act  
3 shall be construed to expand or limit the authority of  
4 States or units of local government to compel the collec-  
5 tion of information.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—There is authorized to be appro-  
8 priated to carry out this Act—

9 (1) \$12,000,000 for fiscal year 2008;

10 (2) \$12,000,000 for fiscal year 2009; and

11 (3) \$12,000,000 for fiscal year 2010.

12 (b) BROADBAND MAP INFORMATION DEVELOPMENT  
13 GRANTS.—Of any amounts appropriated in each fiscal  
14 year pursuant to subsection (a), not less than \$8,000,000  
15 shall be available only for grants under section 4.

16 (c) LOCAL TECHNOLOGY PLANNING GRANTS.—In  
17 addition to the amount appropriated under subsection (a),  
18 there is authorized to be appropriated to make grants  
19 under section 5—

20 (1) \$50,000,000 for fiscal year 2008;

21 (2) \$100,000,000 for fiscal year 2009; and

22 (3) \$150,000,000 for fiscal year 2010.

23 **SEC. 10. DEFINITIONS.**

24 For the purposes of this Act, the following definitions  
25 shall apply:



1           (1) BROADBAND SERVICE CAPABILITY.—The  
2           term “broadband service capability” means an Inter-  
3           net Protocol-based transmission service that enables  
4           users to send and receive voice, video, data, graph-  
5           ics, or a combination, without regard to any trans-  
6           mission media or technology.

7           (2) COMMISSION.—The term “Commission”  
8           means the Federal Communications Commission.

9           (3) NTIA.—The term “NTIA” means the Na-  
10          tional Telecommunications and Information Admin-  
11          istration of the Department of Commerce.

12          (4) PERSONAL CONSUMER INFORMATION.—The  
13          term “personal consumer information”—

14                (A) means information that allows a  
15                human being to be identified individually;

16                (B) includes the following information with  
17                respect to an individual:

18                   (i) the first and last name;

19                   (ii) a home or physical address;

20                   (iii) a date or place of birth;

21                   (iv) an email address or a telephone  
22                   number;

23                   (v) a Social Security account number,  
24                   tax identification number, birth certificate  
25                   number, passport number, driver’s license

1           number, or any other any government-  
2           issued identification number; or

3           (vi) a credit card number or bank ac-  
4           count or card number; and

5           (C) does not include any record of aggre-  
6           gate information that does not permit the iden-  
7           tification of particular individuals.

8           (5) PROVIDER.—

9           (A) PUBLIC PROVIDER.—The term “pub-  
10          lic” when used with respect to a provider of  
11          broadband service capability means a provider  
12          that is an agency or instrumentality of a State,  
13          or a municipality or other subdivision (or agen-  
14          cy or instrumentality of a municipality or other  
15          subdivision) of a State, regardless of the facili-  
16          ties used.

17          (B) COMMERCIAL PROVIDER.—The term  
18          “commercial” when used with respect to a pro-  
19          vider of broadband service capability means a  
20          provider that offers broadband service capa-  
21          bility for a fee, or on an advertising-supported  
22          basis, directly to the public or to such classes  
23          of users as to be effectively available to the  
24          public, regardless of the facilities used.

1           (6) SECRETARY.—The term “Secretary” means  
2     the Secretary of Commerce.

3           (7) STATE.—The term “State” means the  
4     States of the United States, the District of Colum-  
5     bia, the Commonwealth of Puerto Rico, Guam, the  
6     Virgin Islands, American Samoa, the Northern Mar-  
7     iana Islands, and any other territory and possession  
8     of the United States.

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